

October 17, 2013

The Common Council met as the Water Utility Board at 7:00 pm on the above date in the Meeting Room at City Hall Annex with Mayor Tucker presiding and members Jeffries, Fuelling, Hoehn, Curtis, and Higgins attending. Others attending were Attorney Higgins; Supt. Gray; Chief Beloit; Chief Dixon; Comm. Dieterle; John Taylor – PCEDP; Larry Williams; Ed Adams; Jerry Walden; Lois Gray – Posey County News; Sara Manifold – Mount Vernon Democrat; and arriving during the meeting, Supt. Givens.

Mayor Tucker called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented.

Board member Higgins moved the reading of the minutes be waived and they be approved as presented. Seconded by Board member Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Supt. Givens arrived at the meeting.

Mayor Tucker requested action on the claims presented.

Board member Fuelling moved the claims presented be allowed for payment. Seconded by Board member Jeffries.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker stated they will now hear the report of the Water Chairman.

Water Chairman Curtis stated he has no report.

Supt. Gray stated they are wrapping up work on the Wolflin Street project and will doing geo sampling on Monday, and the plug should be putting out water at 1200 gpm.

Mayor Tucker asked if there were any questions ?

There were none.

Mayor Tucker asked if the Clerk-Treasurer had any Communications for the Board ?

Clerk-Treasurer Sitzman replied not at this time.

Mayor Tucker asked if there were any Legals ?

There were none.

Mayor Tucker asked if anyone in the Audience wished to address the Board ?

There was no response.

Mayor Tucker asked if there was any Old Business ?

There was none.

Mayor Tucker asked if there was any New Business ?
There was none.

Mayor Tucker stated if there was no further business, he entertains a motion to adjourn.
Board member Curtis moved the meeting be adjourned. Seconded by Board member Jeffries.
Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker
Mayor

ATTEST:

Cristi L. Sitzman
Clerk-Treasurer

October 17, 2013

The Common Council met immediately following the Water Utility Board on the above date in the Meeting Room at City Hall Annex with Mayor Tucker presiding and members Jeffries, Fuelling, Hoehn, Curtis, and Higgins attending. Others attending were Attorney Higgins; Supt. Gray; Chief Beloit; Chief Dixon; Comm. Dieterle; John Taylor – PCEDP; Larry Williams; Ed Adams; Jerry Walden; Residents of 9th Street; Lois Gray – Posey County News; Sara Manifold – Mount Vernon Democrat; Supt. Givens; and arriving during the meeting, Randy Wininger.

Mayor Tucker called the meeting to order by stating members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented.

Councilman Curtis moved the reading of the minutes be waived and they be approved as presented.
Seconded by Councilman Jeffries.

Mayor Tucker asked if there was any discussion ?
There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker stated they will now hear the reports of the Standing Committees.

Street & Light Chairman Hoehn stated there was a problem with drainage on the west side, undersize piping in a storm sewer. He added he spoke with Comm. Dieterle and he looked it over and corrected the problem. Seems to be doing well now even after the rains earlier in the week.

Comm. Dieterle stated he has no report.

Mayor Tucker asked if there were any questions ?
There were none.

Police & Dog Chairwoman Higgins stated she has no report.

Chief Beloit stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Fire Chairman Jeffries stated he has no report.

Chief Dixon stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Sewer Chairman Fuelling stated there will be a ribbon cutting at the Sewer Plant on October 24 at noon.

Mayor Tucker added the IDEM Commissioner will be there as well.

Supt. Givens stated the Board of Works today approved a sewer tap for Randy Wininger on Old Highway 69 South/W 2nd Street area, pending paperwork. He added the tap is feasible and he will be tapping to a 24" line.

Mr. Wininger arrived at the meeting.

Mayor Tucker asked if there were any questions ?

There were none.

Mayor Tucker asked if the Clerk-Treasurer had any Communications for the Council ?

Clerk-Treasurer Sitzman replied not at this time.

Mayor Tucker stated they are now ready for the Legal portion of the Agenda.

Attorney Higgins stated the first item is the final reading of the proposed Ordinance Establishing Appropriations and Tax Rates for the City of Mount Vernon for the Year Ending December 31, 2014.

She added they held a public hearing and there were no comments.

Councilman Curtis moved the ordinance pass on final reading. Seconded by Councilman Hoehn.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Sitzman added it will be numbered 13-27.

Attorney Higgins stated the next item is the final reading of the Ordinance Establishing Salaries and Wages for Appointed Officers and Employees of the City of Mount Vernon for the Year Ending December 31, 2014.

Councilman Hoehn moved the ordinance pass on final reading. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Sitzman added it will be numbered 13-28.

Attorney Higgins stated the next item is the final reading of an Ordinance of Additional Appropriations in the EDIT Fund. She added they also conducted a public hearing on this and there were no comments.

Councilman Hoehn moved the ordinance pass on final reading. Seconded by Councilwoman Higgins. Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Sitzman added it will be numbered 13-29.

Attorney Higgins stated the next item is the final reading of the Ordinance Amending the Schedule of Rates and Charges for Weekly Trash Pick-Up to be Collected by the City of Mount Vernon, Indiana from the Customers Served by the Street/Sanitation Department of the City of Mount Vernon, Indiana. Councilman Hoehn moved the ordinance pass on final reading. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Sitzman added it will be numbered 13-30.

Attorney Higgins stated they are nearing time to accept transfer of real estate from the Black Township Trustee's Office for the police and fire station building. This should be done by October 31, 2013. The Resolution they have before them is for financing. Approving the forms for the financing of the project. After this, they will engage in transfer from the building corporation. She added the appraisals will also be updated and Council will also be receiving and updated schedule. She concluded by stating the bond sale is schedule for November 14, 2013.

Councilman Hoehn moved the Resolution of the Common Council of the City of Mount Vernon, Indiana, Regarding the Approval of the Forms and Execution of Certain Documents Relating to Bonds of the Mount Vernon Public Safety Building Corporation and Certain Related Matters be approved.

Seconded by Councilman Jeffries.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Sitzman added it will be numbered 13-31.

Attorney Higgins stated the Council also needs to accept the quit claim deed from the Black Township Trustee, before their next meeting.

Councilman Cutis moved Mayor Tucker be authorized to accept the quit claim deed. Seconded by Councilman Hoehn.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Attorney Higgins stated she would like to thank the Black Township Trustee, her office and their board for their work on this project.

Attorney Higgins stated the next item is a Resolution accepting the supplement to the codification.

She added this is a very thick supplement, not an entirely new book. Council should use caution when replacing the pages in their books.

Councilman Hoehn moved the Resolution Enacting and Adopting a Supplement to the Code of Ordinances for the City of Mt. Vernon, Indiana, and Declaring an Emergency, be approved. Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Sitzman added it will be numbered 13-32.

Attorney Higgins stated the next item is the first reading of the Ordinance Updating, Restating, and Recodifying Title III – Administration, Chapter 34 – Employee Regulations, Sections 34.90 Through and Including 34.110 – Controlled Substance and Alcohol Use Testing for Drivers.

Councilwoman Higgins moved the ordinance pass on first reading. Seconded by Councilman Fuelling.

Mayor Tucker asked if there was any discussion ?

Councilman Hoehn stated he talked with Attorney Higgins on a few things, but there are still some things he would like to add. One is suspicion and ability to baseline test – not an individual, but a group. If a supervisor detects activity or symptoms, etc, within a department. He then asked about the protocol if the supervisor is suspect, how does that play out ? If there are reports of activity in a department that should be brought to someone for research. He asked if that is being reasonable ? If the supervisor is the problem, but not showing signs, yet there is still reasonable suspicion.

Attorney Higgins replied they already have reasonable suspicion testing. If it is the department head and the employee is witness to that, is Councilman Hoehn asking who they report that to ?

Councilman Hoehn asked what triggers a reasonable suspicion ?

Attorney Higgins replied activity/behavior must be “observed” by someone qualified.

Councilman Hoehn asked about trafficking. What if trafficking is observed and reported, then group baseline testing would be in order.

Attorney Higgins stated per section 34.105 (2) (F) *Baseline testing. The City may perform baseline testing on all employees within a department at any given time, regardless of shift or department.,* seems to indicate that no reasonable suspicion is needed, that is already included, but reasonable suspicion is a different test and needs to be observed by a qualified individual.

Councilman Hoehn asked two witnesses observe trafficking, then what ?

Attorney Higgins replied all employees have a duty to report that.

Councilman Hoehn asked where they go to make that report.

Attorney Higgins relied to Mrs. Willis if they are suspicious of a supervisor. City Hall, the Mayor's Office. If they suspect trafficking at the Street Department for example, they could baseline test the entire department. But, if there is trafficking, that would precipitate a criminal investigation.

Councilman Jeffries replied exactly.

Attorney Higgins added they could baseline test and then criminally investigate.

Councilman Hoehn asked then if they were covered ?

Attorney Higgins replied yes.

Councilman Hoehn continued by stating in reference to the random testing – he feels the employee should be taken by a supervisor, or someone in authority, to the testing site. That doesn't happen now. They are simply told to report. They should be physically taken to the testing site.

Supt. Givens asked if they are to just drop them off, or do they have to stay with them the whole time ?

Councilman Hoehn replied just to drop them off.

Councilman Jeffries stated according to the ordinance in Section 34.106 (A) (2) *Collection procedures will follow the specific guidelines set forth by the U.S. Department of Transportation as outlined in the published collection procedures guidelines, it seems like that applies to all.* He asked if

Councilman Hoehn is wanting an "observer" to witness the sample being delivered to the collection receptacle ?

Councilman Hoehn stated if someone is called up in the random pull they are currently allowed a "reasonable amount of time" to get to the testing site.

Attorney Higgins section 34.105 (2) on page 10 states *If an employee is selected at random, for either drug or alcohol testing, a city official will notify the employee. Once notified, the employee must proceed to the designated collection site immediately. If the employee does not go to the collection site as soon as possible after notification, such conduct may be considered a refusal to test. , and that does not prevent them from being escorted, that can be added if they so choose.*

Councilman Hoehn stated he feels it needs to be mandatory. Manufactured urine is available in town.

Councilman Jeffries asked if there is an observer there ?

Attorney Higgins replied the test is a mandatory observed test.

Councilman Hoehn added it is a loose end, tie it up. It could open a whole can of worms, and that is unnecessary.

Councilman Jeffries stated they could use a trained observer, but he would bet they would not get many volunteers.

Attorney Higgins stated 34.105 (C) (2) - they could add transportation details.

Councilman Fuelling agreed they could add that an employee will be taken immediately by....

Attorney Higgins suggested they add "escorted immediately", unless they are police or fire, or not on duty.

Councilman Curtis asked about people that work a straight third shift ?

Chief Beloit replied ITI came early enough to catch them before they got off duty.

Attorney Higgins added the supervisor will also have to be here early to escort them.

Councilman Hoehn suggested an officer if not the supervisor. Someone to escort them and to witness.

Mayor Tucker stated he is not sure about an officer – some employees may not be comfortable with that.

Attorney Higgins suggested " must be escorted by supervisor."

Councilman Hoehn added, " or his designee". Yes, that works. He then moved the amendment, as stated above, be added to section 34.105 (C) (2). Seconded by Councilman Jeffries.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously. He then requested a roll call vote on the original motion to pass on first reading, as now amended.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Councilwoman Higgins asked about the alcohol within 300 feet of a park ordinance, where they stand with that ?

Attorney Higgins replied they are in the process of receiving other ordinances, and theirs has now reverted back to what it was. Festival guidelines need to be put in place and she is in contact with the Park Department about that.

Mayor Tucker asked if anyone in the Audience wished to address the Council ?

There was no response.

Mayor Tucker stated under Old Business is an update on the 9th Street area.

Councilman Curtis stated there is nothing specific since the last meeting. He has spoken with others at IACT, and there are nuisance properties everywhere- emergency calls, weeds, appearance of structures and safety....He added South Bend actually has an ordinance. The Posey County Prosecutor is looking into ways other communities have dealt with this and they are awaiting a conference call for more information. Hopefully they will have some options to present within the next month.

Councilman Hoehn asked if they have no ordinances/papers from any other cities ? But, if he is understanding correctly, these are also issues other places as well.

Councilman Curtis replied yes.

Councilman Hoehn asked if they have them to the extent Mt. Vernon does ?

Councilman Curtis replied yes.

Councilman Hoehn asked if they have them to the same level that Mt. Vernon does ?

Councilman Curtis replied there is a disproportionate number of calls.

Councilman Hoehn stated he is concerned if they had these calls before this all became an issue with the Council. He asked what the trigger point is on this and what three block area would be #2 on the list to hit next. He stated the city needs to plug in before it gets up to 250 calls in an area. What is the criteria – so many calls in a certain period of time?

Councilman Curtis agreed and added this particular area has a dense population in a small area.

Councilman Hoehn replied that's fine, but not 250 calls – people are afraid to walk the streets. The City needs to take action. What number of calls is needed before they take action, and in what areas ? Where is our "let's look at this" before people are scared ? They need a trigger point to look at this closer.

Chief Beloit stated he has the numbers but would be afraid to shoot something off the top of his head without looking at the information.

Councilman Hoehn asked if he could have that by the next meeting ?

Chief Beloit replied yes.

Mayor Tucker stated this is a concern, and they are addressing it, and though this is just a three block area, there is a larger number of people there. The apartments themselves house 100 families.

Councilman Hoehn stated from where they are sitting as a Council, he is embarrassed – 250 calls in the matter of a month before the city plugged in – pick a number....

Councilman Jeffries stated patrolling is a strange beast, no "beat" is the same geographically, demographically – each is different and unique though they have similar problems. They can deter

activities, but there is no silver bullet, no ordinance that can fix everything, but they need to be consistent. Slowly but surely, move the ball down the field.

Councilman Hoehn agreed but added he also feels they need a playbook, and also need to adjust the plays. He stated he feels they should have had an action plan before that. He further stated he understands this is a procedural discussion, but their reaction point should be at less than 254 calls, it shouldn't have gone that far. Put a policy in place and follow a chain of command.

Councilman Jeffries stated he would be happy to help out with that, sit on a committee.

Councilman Curtis stated he is on that and anyone else that would like to join is more than welcome. They can set a date next week with himself, Councilman Hoehn, and Councilman Jeffries. He then cited the 161 extra patrols they have already done.

Chief Beloit added they are continuing with that as well.

Councilman Curtis stated there was improvement but now, other issues have cropped up. There are always going to be ups and downs.

One of the residents from the 9th Street area stated there are too many people there that don't have jobs and nothing to do. Again, the landlords need to be responsible.

Councilman Jeffries stated there are numerous nuisance properties, foreclosures, etc. and vacant properties. The banks have no incentive to move these properties. This is just not in Mount Vernon, but everywhere, they then turn into rentals.

Attorney Higgins stated if three council members are going to meet on this issue, that constitutes a meeting and they will need to give 48 hours notice.

Councilman Curtis replied he will get with Clerk-Treasurer Sitzman when they decide on a meeting date.

Mayor Tucker stated under New Business, they need to decide about their meeting on Thanksgiving Day. He further stated by law they need to meet once a month, which they will do on November 14. They can either reschedule or cancel.

Council unanimously agreed to cancel the meeting on November 28 and have only one meeting in November.

Mayor Tucker then stated he received a call late today about W. 8th Street – heavy traffic and parking on both sides of the street. The street is narrow and the caller was concerned about semis using it and suggested a weight limit sign. He also suggested that the 30 mph speed limit is fast for the area. Chief Beloit has verified that is the speed limit in the area.

Councilwoman Higgins stated if truck traffic would switch to Wolflin, with the Safe Routes to School being there, that could be bad as well.

Councilman Hoehn asked Comm. Dieterle if he had a working traffic counter, and if so, could he place it there so they can get some numbers.

Comm. Dieterle replied yes, and he can do that.

Councilman Hoehn stated the Area Plan Commission has a new code of ordinances for housing and setbacks and such. Some of the houses that are being torn down are not on standard size lots, and nothing can be put there as a result. Furthermore, that is causing the area to de-value. He added there is a committee looking into this and possibly they may start to allow garages, big toy storage buildings, etc., to be put on these lots.

Councilman Jeffries asked if this is a local ordinance ?

Councilman Hoehn replied yes.

Councilman Jeffries stated it needs to be de-conflicted.

Councilman Hoehn agreed and added these lots need to be back on the tax rolls.

Mayor Tucker stated they will now hear the reports of the Districts.

1st District Councilman Jeffries stated he has no report.

2nd District Councilman Fuelling stated he has no report.

3rd District Councilman Hoehn stated he has no report.

4th District Councilman Curtis stated he has no report.

Councilwoman-at-Large Higgins stated she has no report.

Mayor Tucker stated there is a Posey County Perception Survey out and he encourages everyone to get on line and take the survey.

Jerry Walden stated the bridge behind Wesselmans is open now, but there are some rather larger pot holes that fill with water at the end of that road at Leonard Road. They need attention.

Mayor Tucker stated if there was no further business, he entertains a motion to adjourn.

Councilman Hoehn moved the meeting be adjourned. Seconded by Councilman Jeffries.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker, Mayor

ATTEST:

Cristi L. Sitzman, Clerk-Treasurer